

The State of New Hampshire

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opinion



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August 29, 1974

Hon. James J. Barry,
Chairman

Hon. Richard P. Brouillard

The Advisory Commission on Health and Welfare
194 Pleasant Street
Concord, New Hampshire 03301

Dear Messrs. Barry and Brouillard:

This is in response to your letters dated July 12 and 18, 1974, respectively, which, taken together, raise the following questions with regard to the internal functioning of the Advisory Commission:

- A. Do RSA 126-A:8-a and 9 (supp) contemplate the designation within the Advisory Commission of (1) various committees, including a Committee on Welfare Services, and an Executive Committee composed of the chairman of the various committees and (2) a vice-chairman to preside in the absence of the chairman?
- B. Does RSA 126-A:9 vest in the chairman the authority to determine the membership of committees and boards of visitation within the Advisory Commission?
- C. May the chairman properly decline to entertain motions made by members of the Advisory Commission at the June 26, 1974 meeting challenging the authority of the chairman to make certain committee assignments?

The answer to question (A) above is "yes". Committees within the Commission to consider the workings of the various divisions within the Department of Health and Welfare, including a Committee on Welfare, are not provided for in, and therefore derive no legal status or powers from, RSA 126-A:9 (supp). However, subordinate committees may be created as a matter of convenience to investigate, consider, and report back to the parent body upon such matters as the latter may deem appropriate, and such committees are not, as a general rule, or upon any facts which you have furnished this office, in contravention of any existing limitations on administrative subdelegation. See, Davis, Admin. Law Treatise, Vol. 1, §9.06, n. 21. Similarly, an executive committee may be established as a matter of convenience by the Advisory Commission, but has no official duties mandated by statute. Further, the Advisory Commission may designate an individual to preside when the chairman is absent, and may title such person a vice-chairman if it prefers. However, such person obtains thereby no statutory duties or status.

The answer to question (B) above is "no". The office of chairman has a statutory existence, but no enumerated powers. RSA 126-A:8-a (supp). The relevant portion of RSA 126-A:9 (supp) speaks only of establishing boards of visitation to certain state institutions without settling by whom they should be designated. Under such circumstances, the membership of said boards, and, by analogy, the less formal committees discussed above, must depend upon a vote of the Commission, rather than appointment by the chairman, unless that power shall have been delegated to him by the Commission. See, Robert's Rules of Order Newly Revised (1970), p. 412.

With respect to question (C), above, the answer to the broader question whether the chairman may refuse to entertain a given motion must depend in all cases upon the substance of the motion, and whether the motion is in order under the procedural rules of the Commission, and, in the absence of predetermined procedural rules, may be determined by the Commission on an ad hoc basis. The most convenient and orderly process for so raising and determining such a question is that of Point of Order and Appeal as detailed in Robert's Rules of Order Newly Revised, §23 and 24.

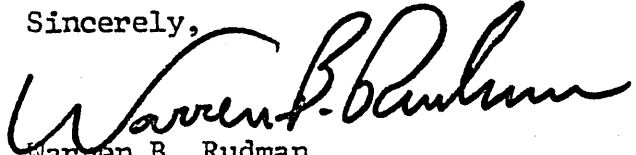
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and Brouillard

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August 29, 1974

In view of the answer to question (B) above,
it is not necessary to consider whether the chairman's
refusal was in order as to the particular motions to
which you directed our attention.

Sincerely,



Warren B. Rudman
Attorney General